APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,076	08/19/2003	Toshiharu Ishida	116692004100	3052

25227   7590   02/04/2009
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

EXAMINER
HAYLES, ASHFORD S

ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
02/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 October 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-15* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Amendment received on October 27, 2008 has been acknowledged. Claim 1 has been amended. Therefore, claims 1-15 are pending.

Response to Amendment

2.   Applicant's amendments are sufficient to overcome previous 35 USC 103(a) prior art rejections as set forth in the previous office action.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6 and 11 recite: "... wherein the standard value of ordinary inventory is based on said sales fluctuation range amount." It is unclear how the applicant intends on basing the standard value of ordinary inventory with the sales fluctuation range amount. Is the standard value of ordinary inventory equal, multiplied, divided, added or subtracted by the sales fluctuation range amount. For examination purposes the Examiner will use the broadest reasonable interpretation.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima et al. (#5,168,445) in view of Kagami et al. (#5,128,861) further in view of Kakouros et al. (#7,249,068).**

As per claims 1, 6 and 11 Kawashima et al. discloses a computer readable medium storing instructions for performing an inventory management method/apparatus/recording medium that calculates a supplement amount of inventory at a specific day (Column 1, lines 7-10 discusses the invention relates to a system of ordering goods at a retail shop and more particularly to an automatic ordering system suitable for ordering work and inventory control of goods distributed daily, See also Figure 1), the method comprises:

a step for calculating a first sales plan amount (See Figure 1, Sales Volume Predictor 3 develops the first sales plan) from a standard day prior to said specific day based on sales performance data (Figure 1, POS Data 11 provides selling status of individual goods or performance data for a good and is fed into the sales volume predictor 3) comprising sales performance for a first period between the standard day and the specific day, and sales plan data a sales plan amount for the period(Column 7, lines 47-48 discusses inputs from the variable condition setter 2 for a period of time is fed into the sales volume predictor and is used to deliver a sales plan, thus providing the sales volume predictor 3 with a sales plan and POS data, which the Examiner is

construing as sales performance data, for a period of time to determine a first sales plan

amount, which is outputted as Predictive Data 12);

a step for predicting a first inventory amount (See Figure 1, Ordering Amount

Calculator 4) at said specific day based on said first sales plan amount (See Figure 1,

Predictive Data 12), a second inventory amount (See Figure 1, Stock Data 13) at said

standard day (Column 7, lines 48-52 discuss a condition diagnostic unit may calculate

the amount of change of selling on the basis of the past contents of the POS data to

automatically correct safety stock volume of the stock data) and warehousing amount

from said standard day to said specific day (Column 4, lines 46-49 discusses ordering

data 14 ordered on the past days (24-th and 25-th days) representative of the delivery

amount for the 26-th and 27-th days).

a step for predicting a second sales plan amount of <u>a second</u> period <u>ranging</u> from

said specific day through a number of following days required to deliver a merchandise,

based on said first sales plan amount (Figure 13(b) depict an ordering amount

calculating formula, which uses the sales volume amount or first sales plan for the

named day to the specific day, as well as a period of time from the named day through

the number of days required for delivery as depicted in Figure 13(a)), but fails to

explicitly disclose a step for calculating a sales fluctuation range amount by multiplying

said second sales plan amount by a predetermined fluctuation range ratio, wherein the

fluctuation range ratio is a pre- calculated value representing fluctuation of a past

performance amount relative to a corresponding expected amount, a step for calculating

a lower limit inventory amount of said specific day as a sum of based on said second

sales plan amount and a standard value of ordinary inventory, wherein the standard

value of ordinary inventory is based on said sales fluctuation range amount; and

Both Kawashima and Kagami et al. are in the same field of inventory

management systems, Kagami et al. teaches a method of calculating a sales fluctuation

range amount by multiplying said second sales plan amount by a predetermined

fluctuation range ratio, wherein the fluctuation range ratio is a pre- calculated value

representing fluctuation of a past performance amount relative to a corresponding

expected amount (Col.5, lines 19-20 discuss a change of sales is forecasted by use of a

sales change model pattern and Col.4, lines 51-59 discusses a sales change model

pattern which uses a ratio of sales to planned sales in total, which represents a past

performance and an expected amount, thus calculating a sales fluctuation amount).

Therefore, it would have been obvious to one of ordinary skill in the art to modify

the inventory management system of Kawashima et al., to include the ability to calculate

a sales change range as taught by Kagami et al. in order to forecast a specific character

of sales peculiar to the goods or a sales plan (Col.4, lines 44-46).

Kawashima discloses forecasting a volume of sales occurring before the delivery

lead time and determining the amount of orders (ordered goods) by taking into account

the volume of inventories at an ordering time point and the safe total stock to prevent

out of stock (Col.2, lines 41-46) and Kagami discloses a countermeasure such as an

inventory adjustment or additional order (Col.5, lines 23-25), as a motivation to

combine, however the Kawashima-Kagami combination fails to disclose a step for

calculating a supplement amount as a difference between the lower limit inventory amount of said specific day and said first inventory amount.

Kakouros teaches a step for calculating a lower limit inventory amount of said specific day as a sum of second sales plan amount and a standard value of ordinary inventory, wherein the standard value of ordinary inventory is based on said sales fluctuation range amount (Col.5, lines 45-48 the total amount of safety stock needed to cover the variability in end customer demand over the exposure period with a specified service level is represented by $q_{(MAX)}$, where the customer demand is construed as the second sales plan amount which includes an estimated mean lead time a_d and estimated lead time deviation μ_L for a review period R, and service level α is a particular period defined as the probability that the product demand in that period plus the unsatisfied product demand in previous periods or sales fluctuations. See equation (1)).

Kakouros further teaches a step for calculating a supplement amount as a difference between the lower limit inventory amount of said specific day and said first inventory amount (Figure 9, Step 90, determines an amount to be ordered from a spot market supply to fulfill a product level needed to meet actual demand above optimal safety stock level and within target service level, where the maximum safety stock level is reduced by the optimal quantity of products to be supplied by spot market sources, which is dependant on demand and market conditions).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the Kawashima-Kagami et al. combination to include the ability to determine a maximum safety stock amount as well as an inventory adjustment ordering amount as

taught by Kakouros et al. in order to cover uncertainty in future end customer demand

with a safety stock level that is less than the safety stock level required to cover

expected demand with a desired service level when supply is available only from non-

spot market sources (Abstract).

As per claims 2, 7, and 12, Kawashima et al. discloses the computer readable

medium/apparatus/recording medium wherein said step for calculating the first sales

plan amount comprises:

a step for calculating a sales performance ratio of each operating day based on

said sales performance data (Column 4, lines 20-25 discuss a sales volumes which

occurred previously on certain days, each being the same day of the week ex.

Thursday, as that of the day for which the sales volume is predicted, i.e., the 28-th day,

is averaged in respect of each item of goods);

a step for calculating an expected sales performance ratio of each operating day

after the standard day (Column 4, lines 12-20 discuss a prediction is based on the

assumption that the date the date named is the 26-th day of the month and goods

ordered on the 26-th day are scheduled to be delivered two days later i.e., on the 28-th

day, thereby predicting on the named 26-th day the volume of sales expected to occur

on the 28-th day) based on said sales performance ratio of each operating day; and

a step for calculating a sales plan amount until said specific day based on said

expected sales performance ratio of each operating day after the standard day (Column

4, lines 14-19, refers to FIG. 5, sales volumes, generally indicated by 503, which

previously occurred on certain days, each being the same day of the week, are

averaged in respect of an item of B chocolate. For example, the thus averaged

predictive value is assumed to be "200").

As per claims 3, 8, and 13, Kawashima et al. discloses the computer readable

medium /apparatus/recording medium, wherein said warehousing amount

is calculated based on said supplement amount of said standard day to the day before

the specific day (Column 2, lines 41-46 discuss a method necessary to forecast or

predict the volume of sales occurring before the delivery lead time and determine the

amount of orders or ordered goods, by taking into account the volume of inventories at

an ordering time point and the safe total stock which is set to prevent out-of-stock).

As per claims 4, 9 and 14, Kawashima et al. discloses the computer readable

medium /apparatus/recording medium, wherein said specific day is a day

after the soonest day possible to supplement the inventory, when there is a new order

(Column 2, lines 56-57 discuss a method that the ordering work is performed once

every day in accordance with a daily ordering schedule and that ordered goods are

delivered two days after an ordering day the day after tomorrow).

As per claims 5, 10 and 15, Kawashima et al. discloses the computer readable

medium/apparatus/recording medium wherein said computer further

comprises a step for respectively calculating a retrospective day that goes back a period

(Column 7, lines 48-52 discuss a method wherein the condition diagnostic unit may

calculate the amount of change of selling on the basis of the past contents of the POS

data to automatically correct safety stock volume of the stock data) which is required to

deliver the merchandise from the factory, before a delivery day of each of one or more

blanket orders, (Column 7, line 68 discuss a method where a fixed quantity ordering

mode may be adopted wherein the order amount is fixed, a blanket order is construed

as a fixed quantity) and said step for calculating said lower limit inventory amount,

(Column 8, lines 28-30 discuss where a selling status and stock status can

automatically be diagnosed in respect of individual goods groups and individual goods,

the Examiner is construing that the process of automatically diagnosing the selling and

stock status, a person having ordinary skill in the art can derive a lower limit inventory

amount) includes calculating with said sales fluctuation range and said second sales

plan amount the lower limit inventory amount at said specific day (Column 8, lines

22-24 discuss the amount of change of selling of individual goods can automatically be

reflected on the order amount), based on each order amount and said retrospective day

of said one or more blanket orders (Column 8, lines 1-4 discuss a mode wherein the

lead time is different for individual items of goods or individual seasons, where the lead

time is construed as the retrospective day).

Response to Arguments

7.   Applicant's arguments see Remarks pg. 8-13, filed October 27, 2008, with

respect to Claim 1 have been fully considered and are persuasive. The previous 35

USC 103(a) rejection of Tone (#5,596,493) has been withdrawn.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Landvater (#7,480,623) discloses a method for determining time-phased product

sales forecasts and projected replenishment shipments for a retail store supply

chain.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ashford S. Hayles whose telephone number is 571-270-

5106. The examiner can normally be reached on Monday thru Thursday 8:30 to 4:00

Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew Gart can be reached on (571) 272-3955. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art
Unit 3687

/A. S. H./

Examiner, Art Unit 3687